

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEI L. WANG, MICHAEL Y.J. WONG,
and CHUN FANG WANG,

Plaintiffs,

– against –

CYR INTERNATIONAL, INC.; CHEW YOUNG :
ROO AMERICA, INC; CYR USA, INC.; CHEW :
YOUNG ROO, INC; CHEW YOURG ROO; CHEW :
YOURG ROO EUR CHAN LIM; CHEW YOUR ROO,
INC.; CHEW YOUNG ROO, INC; C&TEL; CYR CO.,
LTD; and SUNG SOO PARK,

Defendants.

Case No.: 07 CV 5462 (BSJ) (FM)

**ANSWER WITH COUNTERCLAIM
(AND JURY DEMAND)**

Defendant/counterclaim-plaintiff CHEW YOUNG ROO, INC., by its attorneys, for its answer to the second amended complaint and counterclaims, alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 1.
2. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 2.
3. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 3.
4. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 4.
5. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 5.

6. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 6.

7. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 7.

8. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 8.

9. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 9.

10. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 10.

11. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 11.

12. Admits the allegations in paragraph 12.

13. Admits the allegations in paragraph 13.

14. Denies the allegations in paragraph 14.

15. Denies the allegations in paragraph 15.

16. Neither admits nor denies the allegations in paragraph 16, which are legal conclusions.

17. Neither admits nor denies the allegations in paragraph 17, which are legal conclusions.

18. Neither admits nor denies the allegations in paragraph 16, which are legal conclusions.

19. Repeats its answers to paragraphs 1-18.

20. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 20.

21. Denies the allegations in paragraph 21.

22. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 22.

23. Denies the allegations in paragraph 23.

24. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 24.

25. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 25.

26. Denies the allegations in paragraph 26.

27. Denies the allegations in paragraph 27.

28. Denies the allegations in paragraph 28.

29. Denies the allegations in paragraph 29 with respect to defendant Sung Soo Park, and admits the allegations with respect to Chew Young Roo, Inc.

30. Denies the allegations in paragraph 30.

31. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 31.

32. Denies knowledge or information sufficient to form a belief as to the accuracy of the allegations in paragraph 32.

33. Denies the allegations in paragraph 33.

34. Denies the allegations in paragraph 34.

35. Denies the allegations in paragraph 35, except admits that certain defendants received “cease and desist” letters.

36. Denies the allegations in paragraph 36.

37. Denies the allegations in paragraph 37

38. Denies the allegations in paragraph 38.

39. Denies the allegations in paragraph 39, except admits that one or more defendants sell frozen dumplings in the United States.

40. Denies the allegations in paragraph 40.

41. Denies the allegations in paragraph 41.

42. Repeats its answers to paragraphs 1-41.

43. Denies the allegations in paragraph 43.

44. Denies the allegations in paragraph 44.

45. Repeats its answers to paragraphs 1-44.

46. Denies the allegations in paragraph 46.

47. Denies the allegations in paragraph 47.

48. Repeats its answers to paragraphs 1-47.

49. Denies the allegations in paragraph 49.

50. Repeats its answers to paragraphs 1-49.

51. Denies the allegations in paragraph 51.

52. Denies the allegations in paragraph 52.

53. Repeats its answers to paragraphs 1-52.

54. Denies the allegations in paragraph 54.

55. Repeats its answers to paragraphs 1-54.

56. Denies the allegations in paragraph 56.

Affirmative Defenses

First Affirmative Defense

57. Plaintiffs' claims fail for failure to state a cause of action.

Second Affirmative Defense

58. Plaintiffs' claims are barred by the doctrines of estoppel and/or unclean hands.

Third Affirmative Defense

59. Plaintiffs' do not have trademark rights, common law or otherwise, superior to support their claims.

Counterclaim

Counterclaim plaintiff CHEW YOUNG ROO, INC., for its counterclaim against MEI L. WANG, MICHAEL Y.J. WONG, and CHUN FANG WANG, alleges as follows:

1. This Court has original jurisdiction over the subject matter of this counterclaim pursuant to 15 U.S.C. 1121, 28 U.S.C. §§ 1331 and 1338.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), because the counterclaim is substantially related to the claims brought by counterclaim defendant in this district.

3. Counterclaim plaintiff's trademark was and remains a famous mark in South Korea.

4. Counterclaim plaintiff's trademark enjoys substantial goodwill among relevant consumers in the United States, and has since prior to counterclaim defendant's use of its alleged trademarks.

5. Upon information and belief, counterclaim defendants copied the famous Korean mark, with the intention of trading off the goodwill.

6. Upon information and belief, counterclaim defendants' supposed trademark were not used in commerce around the time they filed its application to register on the Principal Register.

7. In light of the lack of use in commerce, this Court, pursuant to Section 37 of the Lanham Act, should order the cancellation of the registered trademark, registration no. 3224337.

WHEREFORE, Chew Young Roo, Inc. prays that the Court dismiss the complaint in its entirety, with prejudice; order the Commissioner of Trademarks of the United States Patent and Trademark Office to cancel registration no. 3224337; grant costs and attorney's fees, and such other and further relief as the Court deems proper.

Jury Demand

Defendant / counterclaim plaintiff demands a jury on all triable issues.

Dated: New York, New York
June 10, 2008

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